



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,795	12/28/2001	Brad R. Black	583P18US	3078

20779 7590 04/06/2005

SHAPIRO COHEN
P.O. BOX 3440
STATION D
OTTAWA, ON K1P6P1
CANADA

EXAMINER

LIM, KRISNA

ART UNIT	PAPER NUMBER
----------	--------------

2153

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/028,795	Applicant(s) BLACK ET AL.	
	Examiner Krisna Lim	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-20 is/are allowed.
- 6) ☒ Claim(s) 1-8, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. Claims 1-22 are presented for examination.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Chandra et al. [U.S. Patent No. 6,457,047].

4. Chandra et al. anticipate (e.g., see Figs. 1-12) the invention substantially as claimed. Taking claim 1 as an exemplary claim, the reference anticipates the system including: a) a main data storage means (e.g., application servers, application cache server, master application servers CDNow and HomeDepot) for storing the data sent to the end users in the data network (e.g., see col. 3 (line 54) to col. 5 (lines 18-30));

b) a data positioning means (cache directory sever hosts a central query dispatcher) for sending a copy of data stored in the main data storage means to a first data server (application sever) selected from the plurality of servers based on specific predetermined criteria, the first data server having a location proximate (see 48 of Fig. 2 and 82 of Fig. 3) to at least one end user requesting the data from a node (e.g., see col. 3 (line 54) to col. 5 (line 30)); and

c) a memory means for maintaining a data file containing a current location of the data sent to a first data server (e.g., see cache directory server 30).

Art Unit: 2153

5. As to claim 2, Chandra et al. anticipate the data is multimedia content (e.g., see col. 1, line 56).

6. As to claim 3, Chandra et al. anticipate the location is geographically proximate to at least one end user (e.g., see col. 1 (line 65), 48 of Fig. 2 and 82 of Fig. 30).

7. As to claim 4, Chandra et al. anticipate (e.g., see cols. 1-2, col. 3 (line 54) to col. 5 (line 30)) the predetermined criteria chosen from the group consisting of: a) number of networks hubs (number of network links) in a preferred path between the first data server and one end user; b) speed of a link between the data network and one end user (estimated network delay); c) amount of traffic along a preferred path between the first data server and one end user (e.g., a number of network links, estimated network delay, other compound measure of proximity, see col. 1 (line 65) to col. 2 (line 5)).

8. As to claim 5, Chandra et al. anticipate the first data server is a server which has multimedia files (e.g, see col. 1 (line 56)).

9. Claims 6-8 and 21-22 are similar in scope as of claims 1-5, and therefore claims 6-8 and 21-22 are rejected for the same reasons set forth above for claims 1-5.

10. Claims 9-20 are allowed.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references are cited in the Form PTO-892 for the applicant's review.

Art Unit: 2153

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

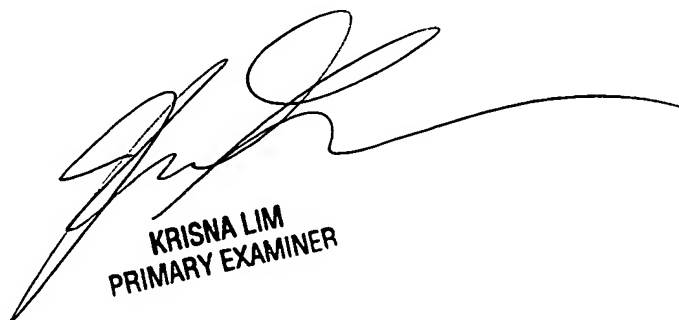
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956. The examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

March 25, 2005



KRISNA LIM
PRIMARY EXAMINER